



Department of
Human Resources

POLICY

Approved by: Rebecca R. Hunter, Commissioner	Policy Number: 12-011 (rev. 1/16)
Signature: <i>Rebecca R. Hunter</i>	Supersedes: 11-013, 99-022
Application: Executive Branch Agencies and Employees, Human Resource Officers	Effective Date: October 3, 2012
Authority: T.C.A. §4-3-1703, T.C.A. §8-30-104, T.C.A. §8-30-316	Rule: Chapter 1120-02 and Chapter 1120-06

Subject:

Extended Periods of Leave Without Pay

Employees in a leave without pay status who are unable to return to work because they are no longer able to perform the essential functions of their positions may not continue in a leave without pay status for more than one (1) year. Specifically, these are employees who have exhausted all other available options, including their annual, sick and compensatory leave balances, the protection offered in accordance with the Family and Medical Leave Act, Sick Leave Bank grants, sick leave transfer, worker's compensation and reasonable accommodations offered under the Americans with Disabilities Act Amendments Act (ADAAA). These employees may not have been released from their doctors to return to work, or may have been released with limitations that prevent them from performing the essential job functions.

Agencies may consider termination in instances of extended periods of leave without pay. If the resulting decision is termination, it should be considered for the good of the service pursuant to Tenn. Code Ann. § 8-30-316. The letter must outline the reasons for termination, specify the ten (10) calendar days paid notice period, contain information about the ability of a preferred service to appeal the discipline, and relay any other necessary information based on the individual's situation. These employees must be separated using a transaction action/reason of termination/other. Employees who voluntarily resign for health reasons will continue to be separated with a transaction action/reason of termination/health.

Involuntary resignations are not allowed under the Rules of the Department of Human Resources. An agency may continue to separate employees for job abandonment pursuant to Tenn. Code Ann. § 8-30-316 and the Rules of the Department of Human Resources Chapter 1120-02. In these types of separations, employees who are in the preferred service should be notified of the ability to appeal in the separation letter. Employees on initial probation do not have the ability to appeal a job abandonment separation.

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The one (1) year limitation for leave without pay also applies to employees who have other extenuating circumstances preventing their return to work. However, this limitation does not apply to employees on extended military leave or approved educational leave.

Questions regarding this policy may be directed to the Employee Relations Division or the Agency Resource Center (ARC).

Tennessee Department of Human Resources

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